

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk Division



JTH TAX INC.,
d/b/a LIBERTY TAX SERVICE,

Plaintiff,

v.

ACTION NO. 2:13cv583

KATHERINE A. KNIGHT,

Defendant.

FINAL ORDER

This matter comes before the court on the "Motion For Default Judgment Against Katherina [sic] A. Knight" ("Motion"), filed on January 17, 2014, by the Plaintiff, JTH Tax, Inc., d/b/a Liberty Tax Service ("Liberty"). ECF No. 16. The matter was referred to United States Magistrate Judge Lawrence R. Leonard by Order of February 5, 2014, pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C), Federal Rule of Civil Procedure 72(b), and Local Civil Rule 72, to conduct hearings, including evidentiary hearings, if necessary, and to submit to the undersigned proposed findings of fact, if applicable, and recommendations for the disposition of the matter. ECF No. 17.

The United States Magistrate Judge's Report and Recommendation was filed on February 14, 2014. ECF No. 18. The Magistrate Judge recommended granting Liberty's Motion for a

default judgment against the only named Defendant, Katherine A. Knight, granting Liberty's request for a permanent injunction against Ms. Knight, and dismissing as moot Liberty's request for a preliminary injunction against Ms. Knight. By copy of the Report and Recommendation of the Magistrate Judge, the parties were advised of their right to file written objections thereto. The court has received no objections to the Magistrate Judge's Report and Recommendation, and the time for filing the same has expired.

The court does hereby adopt and approve the findings and recommendations set forth in the Report and Recommendation of the United States Magistrate Judge filed on February 14, 2014. Accordingly, the court **GRANTS** Liberty's Motion for default judgment, and default judgment is entered in Liberty's favor as to the Defendant, Katherine A. Knight, for counts one, two, and three in the complaint. Further, the court **GRANTS** Liberty's request for a permanent injunction to commence on the date of entry of this Final Order. Specifically, under the permanent injunction, the court **ORDERS** the following:

Defendant, Katherine A. Knight, and all of her agents, employees, and all other persons in active concert or participation with her shall, within seven (7) calendar days of the date of entry of this Final Order, accomplish the following:

1. Stop identifying herself as a Liberty Tax franchisee, never hold out as a former Liberty Tax franchise and cease, and not thereafter commence, use of any of the trademarks or any marks that are likely to be confused with registered trademarks of Liberty, including but not limited to:
 - a. "Liberty Tax Service" (Reg. No. 2,314,991), see ECF No. 1, attach. 1;
 - b. "Liberty Tax Service" logo and service mark (Reg. No. 2,479,692), see id., attach. 2;
 - c. "Liberty Income Tax" (Reg. No. 2,459,756), see id., attach. 3;
 - d. "Liberty Tax" (Reg. No. 2,465,670), see id., attach. 4;
 - e. "The nonfunctional elements of a three-dimensional sculpture in the shape of the Statue of Liberty on a pedestal." (Reg. No. 3,738,741), see id., attach. 5;
2. Stop using all literature and forms received from Liberty and other items, which bear the trademarks;
3. Deliver to Liberty all copies, including electronic copies, of lists and other sources of information containing the names of customers who patronized Ms. Knight's former Liberty franchises;

4. Deliver to Liberty all customer tax returns, files, records, and all copies thereof from Ms. Knight's former Liberty franchises;
5. Deliver to Liberty the copy of the Operations Manual, and any additional copies thereof, and any updates which Liberty loaned to Ms. Knight;
6. Transfer to Liberty all telephone numbers, listings, and advertisements used in the former Liberty offices, and deliver to Liberty copies of such documents of transfer; and
7. Never divulge, or use for the benefit of anyone outside the Liberty system, any information concerning customers served by Ms. Knight's prior Liberty franchised businesses.

Additionally, the court **ORDERS** that, from the date of entry of this Final Order, Ms. Knight is prohibited from:


1. Directly or indirectly preparing or electronically filing income tax returns, or offering bank products, within her former Liberty territories: CA127, CA269, CA270, and CA141, or within 25 miles of the boundaries of such territories for the period of two years; and
2. Directly or indirectly soliciting the patronage of any person or entity served by Ms. Knight's former Liberty

offices during the time period between August 20, 2012 through August 30, 2013, for the purpose of offering such person or entity tax preparation, electronic filing, or bank products within her former Liberty territories, CA127, CA269, CA270, and CA141, or within 25 miles of the boundaries of such territories, for a period of two years.

Finally, the Plaintiff's motion for a preliminary injunction, ECF No. 3, is DISMISSED AS MOOT.

The Clerk shall forward a copy of this Final Order to all parties.

IT IS SO ORDERED.

/s/
Rebecca Beach Smith
Chief
United States District Judge 

REBECCA BEACH SMITH
CHIEF UNITED STATES DISTRICT JUDGE

March 17, 2014